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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/729,089

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Martin D. Pierson

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EXAMINER

TRIEU, VAN THANH

ART UNIT

PAPER NUMBER

2636

DATE MAILED: 11/22/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/729,089

Applicant(s)

PIERSON, MARTIN D.

Examiner

Van T Trieu

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 13 September 2005.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1 and 27-46 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1 and 27-46 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

1. Claims 1, 27-44 are rejected under 35 U.S.C. 103(a) as being unpatentable over **Morris** [US 6,758,718] in view of **Young et al** [US 5,251,856].

Regarding claim 1, the claimed lamp display having at least one stationary light (the stationary light bar 14 or oscillating tail lights 26L and 26R, see Figs. 1 and 4, col. 2, lines 44-62); and the circuitry configured to energize the at least one stationary light (the control circuit 50, see Figs. 3 and 4, col. 3, lines 5-50); and having a processor that comprises: an input for receiving a first signal and an output for supplying a processor output signal that is indicative of the first signal (the decade counter 48 receives a pulse signal of a lock generator 46 and outputting signals Q0 through Q3 according to the each pulse signal, see Fig. 4, col. 3, lines 30-40); and the at least one lamp controller that is in electrical communication with the processor and the lamp display and receives the processor output signal and converts the processor output signal into a controller output signal to energize the at least one stationary light intermittently to simulate the movement of the oscillating light unit without requiring actual movement of the lamp display (the lights 21, 22, 23 and 24 of light bar 14 or oscillating tail lights 26L and 26R

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are repeatedly illuminated in sequence by the output signals Q0 through Q3 to provide the substantially realistic simulation of motion of a real emergency vehicle light bar without moving parts, see Figs. 3A and 4, col. 3, lines 30-47 and col. 4, lines 6-24); but **Morris** fails to disclose the apparatus for a model train operating on a model track to simulate movement of an oscillating light unit. However, **Morris** teaches that the toy or model police car, ambulance, fire truck or other emergency vehicle comprising a light bar 14, headlights 16L, 16R and oscillating tail light 26L, 26R to simulate the lights movement without moving parts or requiring actual movement of the light display, see Figs. 1, 3 and 4, col. 4, lines 52-56, col. 1, lines 40-48. **Young et al** suggests that the model train/locomotive is remotely controlled to operate the model train with sounds and dimming light by a microcontroller 122 and an independent light controller 132, see Figs. 14 and 15. Therefore, it would have been obvious to one skill in the art at the time the invention was made to implement the model train of **Young et al** to the toy model vehicle of **Morris** since they are automobile model simulations and having independent light operations from other movement parts.

Regarding claim 27, the claimed serial communication signal, which reads upon the pulse lock signal, see Fig. 4.

Regarding claim 28, the claimed first signal provides an instruction to the circuitry selected from the group consisting of: turn on, turn off and react DC offset is met by the

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combination of the model train between **Morris** and **Young et al** in respect to claim 1 above, see **Young et al**, Figs. 6, 8, 9 and 11.

Regarding claim 29, the claimed pulse width modulation signal, which reads upon the pulse signal of the lock generator 46, see Fig. 4, col. 3, lines 37-41.

Regarding claim 30, the claimed first signal is indicative of an operating condition of the model toy train car is met by the combination of the model train between **Morris** and **Young et al** in respect to claim 1 above.

Regarding claim 31, the claimed operating condition of the model train is selected from the group consisting of: forward direction, reverse direction, speed and neutral is met by the combination of the model train between **Morris** and **Young et al** in respect to claim 1 above, see **Young et al**, Figs. 6 and 10, col. 1, lines 14-25, col. 6, lines 20-23 and col. 8, lines 39-54.

Regarding claim 32, the claimed connector having a first pin that in electrical communication with the input of the processor to provide the first signal during operation of the model train is met by the combination of the model train between **Morris** and **Young et al** in respect to claim 1 above as the connecting line 14 to the rail for electrically powering to operate the model train vehicle, see **Young et al**, Fig. 3, col. 4, lines 52-68 and col. 5, lines 1-20.

Regarding claim 33, all the claimed subject matters are met by the combination of the model train between **Morris** and **Young et al** in respect to claims 1 and 32 above, see **Young et al**, Figs. 3-6, col. 4, lines 52-68, cols. 5-7 and col. 8, lines 1-49.

Regarding claim 34, all the claimed subject matters are met by the combination of the model train between **Morris** and **Young et al** in respect to claims 1 and 33 above, see **Young et al**, Figs. 3-6.

Regarding claim 35, all the claimed subject matters are met by the combination of the model train between **Morris** and **Young et al** in respect to claims 1 and 34 above, and including a remote control unit 114, see **Young et al**, Figs. 3-6 and 14.

Regarding claim 36, the claimed serial communication signal is pre-programmed into the processor is met by the combination of the model train between **Morris** and **Young et al** in respect to claim 1 above, see **Young et al**, Figs. 6, 14 and 15, col. 10, lines 56-67 and col. 11, lines 1-31.

Regarding claim 37, the claimed varying brightness is met by the combination of the model train between **Morris** and **Young et al** in respect to claim 1 above, as the light dimmer circuit, see **Young et al**, Fig. 5, col. 8, lines 10-18.

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Regarding claim 38, all the claimed subject matters are met by the combination of the model train between **Morris** and **Young et al** in respect to claim 37 above.

Regarding claim 39, all the claimed subject matters are met by the combination of the model train between **Morris** and **Young et al** in respect to claim 1 above, such as the light bar 14, headlights 16L, 16R and the tail lights 26L, 26R, see **Morris**, Figs. 1, 3 and 4.

Regarding claim 40, all the claimed subject matters are met by the combination of the model train between **Morris** and **Young et al** in respect to claims 1, 37 and 39 above.

Regarding claim 41, all the claimed subject matters are met by the combination of the model train between **Morris** and **Young et al** in respect to claims 1 and 39 above, see **Morris**, Fig. 1.

Regarding claim 42, all the claimed subject matters are met by the combination of the model train between **Morris** and **Young et al** in respect to claim 1 above, see **Young et al**, Figs. 3-6, col. 4,

Regarding claim 43, all the claimed subject matters are met by the combination of the model train between **Morris** and **Young et al** in respect to claims 1 and 39 above.

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Regarding claim 44, all the claimed subject matters are met by the combination of the model train between **Morris** and **Young et al** in respect to claims 1 and 39 above.

2. Claims 45 and 46 are rejected under 35 U.S.C. 103(a) as being unpatentable over **Morris** and **Young et al** and further in view of **Molinaroli** [US 6,265,984]

Regarding claim 45, **Morris** fails to disclose the stationary lights are fixedly mounted in a pattern selected from the group consisting of: a circle configuration, and a figure-eight configuration. However, **Morris** teaches that the stationary light bar 14 having a straight configuration, see Fig. 1. **Molinaroli** suggests that the hand operated display device is programmed to display ASCII characters, or symbols, or graphic, which includes circle and number eight, see Figs. 4-9 and 18, col. 9, lines 24-32. Therefore, it would have been obvious to one skill in the art at the time the invention was made to substitute the various light configurations of **Molinaroli** for the single straight light bar of **Morris** and **Young et al** in order to provide a greater attraction and entertainment of the model train vehicle without affecting the operations of the model train vehicle.

Regarding claim 46, all the claimed subject matters are met by the combination of the model train between **Morris** and **Young et al** and **Molinaroli** in respect to claims 1 and 45 above, and including the fiber optic conductor, see **Molinaroli**, col. 7, lines 17-27 and col. 24, lines 31-43.

Response to Arguments

3. Applicant's arguments filed on 13 September 2005 have been fully considered but they are not persuasive. The toy model vehicle/car of **Morris** is obviously combined with the toy model train of previous cited **Young et al** to make the rejection smoother.

Conclusion

4. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the date of this final action.

5. Any inquiry concerning this communication or earlier communications from examiner should be directed to primary examiner **Van Trieu** whose telephone number

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is (571) 272-2972. The examiner can normally be reached on Mon-Fri from 7:00 AM to 3:00 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Mr. **Jeffery Hofsass** can be reached on (571) 272-2981.

A handwritten signature in black ink, appearing to read 'Van Trieu', with a long, sweeping horizontal stroke extending to the right.

Van Trieu
Primary Examiner
Date: 11/17/05